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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,525	10/28/2003	Joel Andrew Romig	HRA-14955	7257
27505	7590	04/01/2005	EXAMINER	
RANKIN, HILL, PORTER & CLARK LLP 4080 ERIE STREET WILLOUGHBY, OH 44094-7836			LUGO, CARLOS	
		ART UNIT		PAPER NUMBER
				3676

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/695,525	ROMIG, JOEL ANDREW	
	Examiner Carlos Lugo	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 February 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 October 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on February 14, 2005.

Claim Objections

2. **Claim 20 is objected to because of the following informalities:**

- Claim 20 Line 2, change "antennas" to -arms-.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-19 and 21 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 1,143,653 to Smith in view of US Pat No 6,174,003 to Smart and further in view of US Pat No 1,264,814 to Kornstein.

Regarding claim 1, Smith discloses an assembly comprising a fixed member and a sliding member. A latch housing (10,14 and 23) is secured to the sliding member.

A latch assembly is movably secured to the latch housing and releasable secured to the catch housing.

The latch assembly comprises a latch arm (28) pivotally secured to the latch housing; and a latch actuator (12,35 and 36) movable relative to the housing and

the latch arm to pivot the latch arm out of engagement. The latch actuator permits the sliding member to be slidably moved away from the fixed member.

However, Smith fails to disclose that the assembly is a window assembly and that the fixed member has a catch housing. Smith discloses that the assembly is a sliding door assembly having a fixed and a sliding member and that the fixed member includes a catch (17), not a catch housing.

Smart teaches a similar lock assembly that could be used in either a door or a window.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the latch assembly of Smith, in a window assembly, as taught by Smart, since it would work as efficient in either a door or a window assembly because the fact that the latch is located in a window or in a door do not have any effect in the movement of the latch.

As to the catch housing, Kornstein teaches that it is well known in the art to have a catch housing (23) attached to a fixed member.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a catch housing, as taught by Kornstein, into the device as described by Smith, in order to secure that latch arm within the catch.

As to claim 2, Smith discloses that the latch actuator is slidably secured to the latch housing and is moveable relatively toward and away from the catch.

As to claims 3,4, and 21, Smith discloses that the latch arm extends from the latch housing toward the catch.

As to claims 5 and 13, Smith discloses that the latch arm includes first and second latch arms (28). Each arm includes a first actuated end and a second latching end. The latching end is adapted to releasably engage the catch and the actuated end are engaged to the latch actuator to move the latching ends out of engagement with the catch.

As to claims 6,7,14 and 15, Smith fails to disclose that the catch has front, rear, upper, and lower walls cooperate to define an end opening through which the latch arms extend and that the upper and lower walls defines slotted openings that receive the latch arms second latching ends.

Kornstein teaches that it is well known in the art to have a catch housing (23) that includes front, rear, upper, and lower walls cooperate to define an end opening through which the latch arms extend. Also, Kornstein teaches that the upper and lower walls define slotted openings that receive the latch arms second latching ends (the opening between 41 and the rear wall, Figures 1 and 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was to provide a catch housing with front, rear, upper, and lower walls and that the upper and lower walls define slotted openings that receive the latch arms second latching ends, as taught by Kornstein, into a lock assembly as described by Smith, in order to secure that latch arm within the catch.

As to claim 8, Smith discloses that the latch actuator (12) is slidably secured to the latch housing and is moveable relatively toward and away from the catch housing.

As to claims 9 and 16, Smith discloses that the assembly further comprises a biasing spring (37) associated with the latch arms and serving to bias the latch arms latching ends into engagement with the catch housing.

As to claims 10 and 17, Smith discloses that each of the latch arms further includes a pivot pin that is received in the latch housing. The pivot pin defines an axis about which the latch arm rotates.

As to claim 11, Smith discloses that the latch housing includes rails (the upper and lower walls of the latch housing) that guide the latch actuator as the latch actuator is slidably moved.

As to claim 12, Smith discloses that the latch arm has a first actuated end, an elongated body and a second latching end. The actuated end is received within the latch housing, the body portion projects from the latch housing and the latching end is disposed outside the latch housing.

As to claims 18 and 19, Smith, as modified to Smart and Kornstein, disclose or suggest a method for operating a latch assembly in lock or unlock the sliding member with respect to the fixed member.

5. **Claims 1-21 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 1,264,814 to Kornstein in view of US Pat No 6,174,003 to Smart and in view of US Pat No 1,143,653 to Smith.

Regarding claim 1, Kornstein discloses an assembly comprising a fixed member (21) that engages, by means of a latch, with a movable member (20). A latch

housing (22) is secured to the movable member. The fixed member includes a catch housing (23).

A latch assembly is movably secured to the latch housing and releasable secured to the catch housing.

The latch assembly comprises at least one latch arm (24 and 26) pivotally secured to the latch housing; and a latch actuator (27,28, and 37) movable relative to the housing and the latch arm to pivot the latch arm out of engagement. The latch actuator permits the moveable member to be moved away from the fixed member (from Figure 2 to Figure 1 positions).

However, Kornstein fails to disclose that the assembly is a window assembly and that the movable member is a sliding member.

As to the system being a window assembly, Smart teaches a similar latch assembly that could be used in either a door or a window.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the latch assembly of Kornstein, in a window assembly, as taught by Smart, since it would work as efficient in either a door or a window assembly because the fact that the latch is located in a window or in a door do not have any effect in the movement of the latch.

As to the movable member being a sliding member that engages a fixed member, Smith teaches that it is well known in the art to have a sliding member (a sliding door) that includes a latch assembly that will engage a catch at a fixed member.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the latch assembly of Kornstein, into a sliding member, as taught by Smith, since the fact that the moveable member is a sliding member is considered as intended use of the latch assembly and because the fact that the latch is located in a sliding member or in pivoting member do not have any effect in the movement of the latch.

As to claim 2, Kornstein discloses that the latch actuator (at 27 and 28) is slidably secured to the latch housing and is moveable relatively toward and away from the catch.

As to claims 3 and 21, Kornstein discloses that the latch arm extends from the latch housing toward the catch.

As to claims 5 and 13, Kornstein discloses that the latch arm includes first and second latch arms (24 and 26). Each arm includes a first actuated end and a second latching end. The latching end is adapted to releasably engage the catch and the actuated end are engaged to the latch actuator to move the latching ends out of engagement with the catch.

As to claims 6,7,14 and 15, Kornstein discloses that the catch housing (23) includes front, rear, upper, and lower walls cooperate to define an end opening through which the latch arms extend. Also, Kornstein discloses that the upper and lower walls define slotted openings that receive the latch arms second latching ends (the opening between 41 and the rear wall, Figures 1 and 2).

As to claim 8, Kornstein discloses that the latch actuator (at 27 and 28) is slidably secured to the latch housing and is moveable relatively toward and away from the catch housing.

As to claims 9 and 16, Kornstein discloses that the assembly further comprises a biasing spring (31 and 32) associated with the latch arms and serving to bias the latch arms latching ends into engagement with the catch housing.

As to claims 10 and 17, Kornstein discloses that each of the latch arms further includes a pivot pin (at 27) that is received in the latch housing. The pivot pin defines an axis about which the latch arm rotates.

As to claim 11, Kornstein discloses that the latch housing includes rails (28) that guide the latch actuator (at 27) as the latch actuator is slidably moved.

As to claim 12, Kornstein discloses that the latch arm has a first actuated end, an elongated body and a second latching end. The actuated end is received within the latch housing, the body portion projects from the latch housing and the latching end is disposed outside the latch housing.

As to claims 18 and 19, Kornstein, as modified to Smart, disclose or suggest a method for operating a latch assembly in lock or unlock the sliding member with respect to the fixed member.

As to claim 20, Kornstein discloses that the latch actuator (at 37) is disposed between the first and second latch arms.

As to claim 21, Kornstein discloses that the at least one latch arm protrudes from the latch housing.

6. **Claims 1-5,12,13, and 21 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,174,003 to Smart in view of US Pat No 1,143,653 to Smith.

Regarding claim 1, Smart discloses a window assembly (Col. 1 Lines 8-10) comprising a fixed member (where 14,15 and 16 is located) and a movable member (where 10 is located).

A catch housing (14,15 and 16) is secured to the fixed member and a latch housing (10) is secured to the sliding window.

A latch assembly is movably secured to the latch housing and releasable secured to the catch housing.

The latch assembly comprises a latch arm (18 and 19) pivotally secured to the latch housing and biased into engagement with the catch housing; and a latch actuator (20,21,24 and 25) movable to pivot the latch arm out of engagement with the catch housing. The latch actuator permits the sliding window to be slidably moved away from the fixed member.

However, Smart fails to disclose that the movable member wherein the latch assembly is fixed is a sliding member.

Smith teaches that it is well known in the art to have a sliding member (a sliding door) that includes a latch assembly that will engage a catch at a fixed member.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the latch assembly of Smart, into a sliding member, as taught by Smith, since the fact that the moveable member is a sliding

member is considered as intended use of the latch assembly and because the fact that the latch is located in a sliding member or in pivoting member do not have any effect in the movement of the latch.

As to claim 2, Smart discloses that the latch actuator is slidably secured to the latch housing and is moveable relatively toward and away from the catch housing.

As to claims 3,4 and 21, Smart discloses that the latch arm extends from the latch housing toward the catch housing.

As to claims 5 and 13, Smart discloses that the latch arm includes first and second latch arms (18 and 19). Each arm includes a first actuated end and a second latching end. The latching end is adapted to releasable engage the catch housing and the actuated end are engaged to the latch actuator to move the latching ends out of engagement with the catch housing.

As to claim 12, Smart discloses that the latch arm has a first actuated end, an elongated body and a second latching end. The actuated end is received within the latch housing, the body portion projects from the latch housing and the latching end is disposed outside the latch housing.

7. **Claims 6-10 and 14-17 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,174,003 to Smart as applied to claim 1 above, and further in view of US Pat No 1,264,814 to Kornstein.

Regarding claims 6,7,14 and 15, Smart fails to disclose that the catch has front, rear, upper, and lower walls cooperate to define an end opening through which the

latch arms extend and that the upper and lower walls defines slotted openings that receive the latch arms second latching ends.

Kornstein teaches that it is well known in the art to have a catch housing (23) that includes front, rear, upper, and lower walls cooperate to define an end opening through which the latch arms extend. Also, Kornstein teaches that the upper and lower walls define slotted openings that receive the latch arms second latching ends (the opening between 41 and the rear wall, Figures 1 and 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a catch housing having front, rear, upper and lower walls with the upper and lower walls define slotted openings that receive the latch arms, as taught by Kornstein, into a device as described by Smart, in order to house and secure the latch arms inside the catch housing.

As to claim 8, Smart discloses that the latch actuator is slidably secured to the latch housing and is moveable relatively toward and away from the catch housing.

As to claims 9 and 16, Smart discloses that the assembly further comprises a biasing spring (28) associated with the latch arms and serving to bias the latch arms latching ends into engagement with the catch housing.

As to claims 10 and 17, Smart discloses that each of the latch arms further includes a pivot pin (26 and 27) that is received in the latch housing. The pivot pin defines an axis about which the latch arm rotates.

Response to Arguments

8. Applicant's arguments filed on February 14, 2005 have been fully considered but they are not persuasive.

Regarding applicant's arguments that Smart, by itself, fails to disclose a sliding window (Page 13 Line 7), Smart, as modified by Smith, discloses the invention as claimed.

Smart discloses that the latch assembly can be used in a door or in a window. The fact that the window is a sliding window is considered as intended use of where the latch should be placed. Structurally, Smart discloses and illustrates the latch assembly as claimed. Furthermore, Smith teaches that is well known in the art to have a similar latch assembly to be fixed in a sliding member that engages a catch in a fixed member.

As to applicant's arguments that there is no structure in Smart that can be construed as being movable to pivot the jaws out of engagement with the keeper (Page 13 Line 10), Smart discloses and illustrates an actuator (20,21,24, and 25) that make the jaws to pivot (about 26 and 27) so as to engage or disengage from the keeper (16).

As to applicant's arguments that Smart fails to disclose an actuator being moveable relative to the housing and the arm (Page 13 Line 17), Smart discloses and illustrates this limitation.

As to applicant's arguments that smart fails to disclose that the latch arm has a first actuated end, an elongated body and a second latching end. The actuated end

is received within the latch housing, the body portion projects from the latch housing and the latching end is disposed outside the latch housing (Page 13 Line 19), Smart discloses and illustrates this limitation.

As to applicant's arguments that Smith, as modified by Smart and Kornstein, fails to disclose the invention as claimed (Page 14 Line 18), the applicant's arguments are not persuasive.

Applicant arguments are based in the fact that Smith is used for a sliding door of a barn or a garage and that it would be obvious to use that type of latch assembly in a window assembly. Smart teaches that it is well known in the art to have a similar latch assembly that can be used in either a door or a window assembly.

As explained above, the fact that the window is a sliding window is considered as intended use of where the latch should be placed. Structurally, Smith discloses and illustrates the latch assembly as claimed.

As to Kornstein, Kornstein is only used in this combination to show that it is well known in the art to have a catch housing that includes front, rear, upper, and lower walls cooperate to define an end opening through which the latch arms extend. Also, Kornstein teaches that the upper and lower walls define slotted openings that receive the latch arms second latching ends.

As to the new claims 20 and 21, Smart, as modified by Smith and Kornstein; Smith as modified by Smart and Kornstein; and Kornstein, as modified by Smith and Smart discloses the invention as claimed.

Conclusion

9. Applicant's amendment, the new limitation that the latch actuator is movable relative to the housing and the latch arm to pivot the latch arm out of engagement, as claimed in claim 1 lines 11 and 12, that the latch actuator is disposed between the first and second latch arms, as claimed in new claim 20, necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone

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number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L

Carlos Lugo
AU 3676

March 24, 2005



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